

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

SAMUEL SCHLEY LYNCH
KATHARINE L. BARITELL
OLIVE O. LYNCH
LAURA LYNCH SEVIER

Claim No. CU-1846
Claim No. **CU** -1847
Claim No. CU-1848
Claim No. CU-1849
Decision No. **CU**

105

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, were presented by SAMUEL SCHLEY LYNCH, KATHARINE L. BARITELL, OLIVE O. LYNCH and LAURA LYNCH SEIVER, for a total of \$5,000.00, based upon the asserted ownership and loss of interests in land. Claimants have been nationals of the United States since their births in the United States.

Under Section 503 of the International Claims Settlement Act of 1949, as amended (64 Stat. 12; 69 Stat. 562; 72 Stat. 527; 78 Stat. 1110; 79 Stat. 988) the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. That section provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

(a) . . . losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States, . . .

Section 504 of the Act provides, as to Ownership of Claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States, . . . The term does not include aliens."

Section 502(3) of the Act provides:

The term 'property' means any property , right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimants contend they have lost investments in real property in Cuba valued at \$5,000.00. They have submitted copies of contracts of purchase and sale recorded on November 12, 1957 and October 17, 1958, between Edwin Greenfield and Gene Scarbrough, as the sellers, and SAMUEL SCHLEY LYNCH, KATHARINE L. BARITELL, OLIVE O. LYNCH and LAURA LYNCH SEVIER, the claimants herein, as the purchasers. According to the afore-stated contracts, the sellers, described as owners of Lot of avenue number 148 and the southern half of Lot number 10, Section 2, Santa Fe Estate, Isle of Pines, Cuba, sold Parcel 12, Lot 148 to claimant, SAMUEL SCHLEY LYNCH, for the price of \$200.00; Parcel 8, Lot 148 to claimant, KATHARINE L. BARITELL, for the price of \$200.00; Parcel 5, Lot 148 to claimant, OLIVE O. LYNCH, for the price of \$200.00; Parcel 7, Lot 148 to claimant LAURA LYNCH SEVIER, for the price of \$200.00; and the S.W. 1/4 of Lot 10 to claimants, OLIVE O. LYNCH and LAURA LYNCH SEVIER, for the price of \$500.00.

Claimants have also submitted an affidavit dated April 13, 1967, from the aforestated sellers, Edwin Greenfield and Gene Scarbrough. The affiants state that the prices stated in the subject contracts "were inserted by the officiating Cuban Government Officer (Notario) as a compromise settlement in lieu of unrealistic transfer taxes imposed by the Government of Cuba based on the selling price of said Real Estate." The affiants further state that the actual price paid to them for the subject property was \$3,000.00 for the S.W. 1/4 of Lot 10 and \$500.00 each for Parcels 5, 7, 8 and 12, Lot 148.

On the basis of the entire record and the state of Cuban law at the time of the transaction, the Commission finds that claimants, SAMUEL SCHLEY LYNCH, KATHARINE L. BARITELL, OLIVE O. LYNCH and LAURA LYNCH SEVIER, became the owners, respectively, of Parcels 12, 8, 5 and 7, Lot of avenue number 148, Section 2, Santa Fe Estate, Isle of Pines, Cuba; and that claimants, OLIVE O. LYNCH and LAURA LYNCH SEVIER, became the owners, in equal parts, of the S.W. 1/4 of Lot 10, Section 2, Santa Fe Estate, Isle of Pines, Cuba.

On December 6, 1961, the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country.

As the record shows, in December 1961, claimants were residents in the United States. The Commission finds, in the absence of evidence to the contrary, that the subject real property was taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989.

Based on the entire record the Commission finds that the S.W. 1/4 of Lot 10 had a value of \$3,000.00 at the time of loss, and that Parcels 5, 7, 8 and 12, Lot 148 each had a value of \$500.00. Accordingly, the Commission concludes that claimants, SAMUEL SCHLEY LYNCH and KATHARINE L. BARITELL, each suffered a loss in the amount of \$500.00 and that claimants, OLIVE O. LYNCH and LAURA LYNCH SEVIER, each suffered a loss in the amount of \$2,000.00, within the meaning of Title V of the Act.

The Commission has decided that in payment of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be allowed at the rate of 6% per annum from the date of loss to the date of settlement (See the Claim of American Cast Iron Pipe Company, FCSC Claim No. CU-0249).

Accordingly, the Commission concludes that the amount of the loss sustained by claimants shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that SAMUEL SCHLEY LYNCH suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Five Hundred Dollars (\$500.00) with interest thereon at 6% per annum from December 6, 1961, to the date of settlement;

the Commission certifies that KATHARINE L. BARITELL suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Five Hundred Dollars (\$500.00) with interest thereon at 6% per annum from December 6, 1961, to the date of settlement;

the Commission certifies that OLIVE O. LYNCH suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Two Thousand Dollars (\$2,000.00) with interest thereon at 6% per annum from December 6, 1961, to the date of settlement; and

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the Commission certifies that LAURA LYNCH SEVIER suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Two Thousand Dollars (\$2,000.00) with interest thereon at 6% per annum from December 6, 1961, to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

JUN 28 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision upon the expiration of 30 days after such service or receipt of notice, the decision will be entered as the Final Decision of the Commission, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

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